

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§
v. § CRIMINAL ACTION NO. 4:06-CR-95
§
ALFONSO MIGUEL MARTINEZ (3) §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant Alfonso Miguel Martinez's ("Defendant") supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on December 7, 2021, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson of the Federal Public Defenders Office. The Government was represented by Assistant United States Attorney Camelia Lopez.

Defendant was sentenced on September 26, 2007, before The Honorable Richard A. Schell of the Eastern District of Texas after pleading guilty to the offense of Conspiracy to Possess with Intent to Distribute Cocaine, a Class A felony. This offense carried a statutory maximum imprisonment term of life. The guideline imprisonment range, based on a total offense level of 33 and a criminal history category of IV, was 188 to 235 months. Defendant was subsequently sentenced to 180 months imprisonment followed by 5 years supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, drug testing and treatment, GED requirement, and a \$100 special assessment. On May 24, 2016, pursuant to a Motion filed under 18 U.S.C. § 3582(c)(2) the term of imprisonment was reduced to 151 months. On May 3, 2017, Defendant completed his period of imprisonment and began service of the

supervision term. On November 14, 2018, this case was reassigned to The Honorable Amos L. Mazzant, III, U.S. District Judge.

On February 8, 2021, the United States Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 164, Sealed]. The Petition asserts that Defendant violated three (3) conditions of supervision, as follows: (1) The defendant shall not commit another federal, state, or local crime; (2) The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon; and (3) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician [Dkt. 164 at 1-2, Sealed].

The Petition alleges that Defendant committed the following acts: (1), (2) On December 23, 2020, Defendant was arrested by the Rockwall County Sheriff's Office for two counts of Aggravated Assault with a Deadly Weapon, a second-degree felony in violation of Texas Penal Code 22.02(a)(2), and Public Intoxication, a Class C misdemeanor in violation of Texas Penal Code 49.02(a). According to the arrest report, Defendant stabbed or cut the victims[] multiple times with a utility knife during an altercation at Defendant's house. When officers arrived, Defendant was visibly impaired with slurred speech and an odor of alcohol emitting from his person. Defendant was taken into custody and eventually released on bond, and the case is pending in Rockwall County; and (3) Defendant excessively used alcohol as evidenced by his arrest for Public Intoxication on December 23, 2020 [Dkt. 164 at 1-2, Sealed].

Prior to the Government putting on its case, Defendant entered a plea of true to allegation 3 of the Petition. The Government dismissed allegations 1 and 2. Having considered the Petition

and the plea of true to allegation 3, the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this Court [Dkts. 182; 183].

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for an additional term of imprisonment of nine (9) months, with a term of supervised release of one (1) year to follow.

The Court further recommends imposition of the following special conditions: (1) You must provide the probation officer with access to any requested financial information for purposes of monitoring efforts to obtain and maintain lawful employment; (2) You must participate in a program of testing and treatment for drug abuse and follow the rules and regulations of that program until discharged. The probation officer, in consultation with the treatment provider, will supervise your participation in the program. You must pay any cost associated with treatment and testing; and (3) You shall obtain a GED, if you have not already done so.

The Court also recommends that Defendant be housed in a Bureau of Prisons facility in the North Texas area, if appropriate.

SIGNED this 28th day of December, 2021.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE